

**Part C - Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision (the decision) dated July 20, 2023, which denied the appellant's request for a crisis supplement for a dining table and chairs. The ministry is not satisfied that any member of the family unit's physical health will be in imminent danger if they do not receive the table and chairs, therefore the request does not meet all the criteria under Section 59 of the Employment and Assistance Regulation.

**Part D - Relevant Legislation**

Employment and Assistance Act (Act) ~ Section 4  
Employment and Assistance Regulation (Regulation) ~ Section 59

## **Part E – Summary of Facts**

The evidence before the minister at reconsideration included the following;

- The appellant requested a crisis supplement for a dining table and chairs, as she has no other resources to obtain the furniture.
- The appellant explained she does not have a table and chairs as she was previously living in a recreational vehicle (RV) and was evicted.
- She explained that there is no threat or danger if she does not receive a crisis supplement for the table and chairs, but she and her children will not have anything to sit and eat meals on if she does not receive the supplement.

### **Additional information**

The appellant's notice of appeal (NOA) contained a statement that the appellant was living in a trailer and received an eviction letter from the landlord. She ended up with two kids in a shelter after the landlord was harassing her and her kids. She has rented a new place but does not have any furniture as they did in the trailer, which had everything they needed but nothing that can be carried to an apartment.

### **Oral submissions**

The hearing was held by telephone. The ministry did not attend the hearing. The panel confirmed that the ministry was properly notified of the hearing and proceeded in its absence in accordance with section 86(b) of the Regulation.

### **Appellant**

The appellant explained that when she had to move from the RV she was left without any furniture in the new apartment. She is currently undergoing job training and has asked people at that location if anyone has a table and chairs that she may have. She has also approached a local service club without any luck.

As she is on the training course, she has no money to buy anything and is unable to take alternate work to earn money. When she looks on the internet sites such as Facebook Marketplace she is unable to afford any of the advertised furniture.

The appellant stated it seems the ministry does not care about her children having to sit

on the floor to eat meals. She has to use the local food bank to provide food and cannot afford furniture.

In answer to questions the appellant stated that she had initially told the ministry that not having a table and chairs would not be an issue however that was at the time of application. However, this has now changed. The family must eat on the floor sitting on a mat.

The appellant stated that not having a table and chair at which to sit and eat is now affecting her children. They are embarrassed at not being able to invite other kids over to the apartment and it is affecting their emotions. The kids are feeling shame and embarrassment but will not talk about it.

#### Ministry

The ministry did not attend the hearing and provided no further information.

#### **Admissibility of new information**

Section 22(4) of the Act says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Once a panel has determined which additional evidence, if any, is admitted under Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, a panel must determine whether the decision under appeal was reasonable based on all admissible evidence.

During oral testimony the appellant introduced commentary regarding the current situation regarding her children.

The panel finds that this information is relevant because it relates to the reasoning of the ministry's reconsideration decision.

The panel admits the new information under section 22(4) of the Act as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**Part F – Reasons for Panel Decision**

The issue on appeal is the reasonableness of the ministry's decision which held that the ministry is unable to provide the table and chairs as the appellant's request does not meet all the criteria under Section 59 of the Employment Assistance Regulation (Regulation).

In particular, was the ministry's decision that no member of the family unit's physical health will be in imminent danger, if the appellant does not receive a crisis supplement for table and chairs, reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation is provided in Appendix A.

Appellant Position

The appellant argues in new information that the lack of a table and chairs is causing imminent danger to the members of the family unit, in that the children are now suffering shame and embarrassment of their situation and are therefore unable to invite any of their friends to the house and are unable to discuss the situation.

Ministry Position

The ministry argues at reconsideration that it is not satisfied that the appellant's physical health will be in imminent danger. The ministry notes the appellant had explained that there is no threat or danger if she does not receive a crisis supplement for table and chairs.

Panel Finding

The appropriate legislation is found within Section 59(1) of the Regulation which states a crisis supplement may only be provided if all the following eligibility criteria are met:

- The family unit is eligible for income assistance or hardship assistance **and**
- The need for the item is not expected or there is an unexpected expense **and**
- There are no resources available **and**
- Failure to obtain the item or meet the expense will lead to imminent danger to the physical health of any person in a family unit, or a child being removed under the *Child, Family and Community Service Act*.

The ministry has already accepted a number of the criteria and the panel notes no information or evidence relating to child removal. In this case therefore, the panel is only

concerned with the criterion of imminent danger to the physical health of any person in a family unit.

The terms 'imminent danger' and 'physical health' are not defined in the legislation and have not been defined by the ministry. The Webster dictionary defines imminent as an event happening very soon, and danger as an exposure or liability to injury, pain, harm or loss, and that of health as the condition of being sound in body, mind, or spirit, especially freedom from physical disease or pain, or the general condition of the body. Further definitions state that physical health is one dimension of total well-being, which includes social, mental and emotional health.

The panel notes the legislation's use of "will result in" indicates the imminent danger relates to an expected current or future risk to physical harm or pain. As the legislation requires the minister consider whether the imminent danger is present, the panel finds the ministry to have discretion in the interpretation of the legislation.

The panel, noting the legislation specifically requires imminent danger to physical health, is therefore prepared to accept these definitions as appropriate to define imminent danger and physical health in the circumstances of the appellant.

The panel notes the ministry's statement that the ministry is not satisfied that the appellant's family's physical health will be in imminent danger if they do not receive the table and chairs, as the appellant explained that there is no threat or danger if they do not receive a crisis supplement for table and chairs. Further, the appellant has stated at appeal that this was indeed her belief at the time of the original request.

The ministry has not discussed the reported living conditions at the time, or the appellant's daughter's reported allergies to dust when considering imminent danger as defined herein, appearing simply to rely upon the statement of the appellant. The panel notes however that the appellant has in fact applied for the crisis supplement for the furniture.

On the face of such an argument the panel notes the ministry has articulated a determination of imminent danger to be only what the appellant considers imminent danger. The panel expresses concern that the actual evidence considered by the ministry was not presented by the ministry in the reconsideration decision.

The panel notes the lack of any discussion or evidence presented by the appellant at the time of the initial request that demonstrates an exposure or liability to physical injury, pain, harm or loss, nor of any such exposure likely to happen very soon. Coupled with the

appellant's own statement at the time, the panel finds that at reconsideration the ministry's finding that no imminent danger existed to be reasonable and a reasonable exercise of discretion in the circumstances of the appellant.

As the appellant has provided more current information, the panel must consider whether the new information shows that imminent danger to physical health will result if the table and chairs are not provided.

At hearing the appellant states the circumstances have now changed and that not having a table and chairs is affecting the wellbeing of the children. She advised that they are experiencing shame and embarrassment and are reluctant to invite friends to their home. The panel sees no reason to believe the comments are not accurate.

The panel must therefore decide whether the ministry's finding, that imminent danger to physical health was not established, is still reasonable given the new information. That is, the panel must weigh the new evidence of family upheaval, shortage of funds, rehousing and past harassment allegation, and the shame and embarrassment felt by the children against the definitions of "imminent" and "physical health" accepted by the panel.

While noting the reaction of shame and embarrassment by the children, the panel notes no new evidence from the appellant that relates to an exposure or liability to physical injury, pain, harm or loss, nor of any such exposure likely to happen very soon. The panel finds that the appellant has not shown that failure to meet the expense or obtain the table and chairs will result in imminent danger to the physical health of any person in the family unit as required under section 59 of the legislation.

Therefore, based on the evidence available and the factors discussed above, the panel finds the ministry's determination that imminent danger to the physical health of a person in the family unit has not been established is reasonable.

### Conclusion

The panel finds the ministry's reconsideration decision which denied the appellant's request for a crisis supplement for a table and chairs, as the request does not meet all the requirements under Section 59 of the Regulation, to be reasonably supported by the evidence, and a reasonable interpretation of the legislation in the circumstances of the appellant.

The appellant is not successful upon appeal and the panel confirms the reconsideration decision.

Appendix A

## EMPLOYMENT AND ASSISTANCE REGULATION

### **Crisis supplement**

**59** (1)The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if

(a)the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and

(b)the minister considers that failure to meet the expense or obtain the item will result in

(i)imminent danger to the physical health of any person in the family unit, or

(ii)removal of a child under the *Child, Family and Community Service Act*.

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**Part G – Order**

The panel decision is: (Check one)     Unanimous     By Majority

The Panel     Confirms the Ministry Decision     Rescinds the Ministry Decision

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount?    Yes     No

**Legislative Authority for the Decision:**

*Employment and Assistance Act*

Section 24(1)(a)     or Section 24(1)(b)

Section 24(2)(a)     or Section 24(2)(b)

**Part H – Signatures**

Print Name

Don Stedeford

Signature of Chair

Date (Year/Month/Day)

2023/08/21

Print Name

Corrie Campbell

Signature of Member

Date (Year/Month/Day)

2023/08/21

Print Name

Kevin Ash

Signature of Member

Date (Year/Month/Day)

2023/08/21